

This letters discusses sales tax for groceries ordered in Illinois but delivered in COUNTRY. See 35 ILCS 120/1 et seq. and 35 ILCS 105/1 et al.. (This is a GIL.)

July 23, 2007

Dear Xxxxx:

This letter is in response to your letter dated December 5, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am a state tax attorney representing a client who may be engaging in transactions in the State of Illinois sometime in the near future. The purpose of this inquiry is to obtain a written ruling from the State regarding the taxable nature of these transactions under the Illinois sales tax or any other Illinois transaction tax that might apply to these transactions. The specifics of the transactions are as follow [sic]:

#### FACTS

Our client and some colleagues in COUNTRY have formed a COMPANY, and our client has also formed a BUSINESS whose sole member is a STATE limited partnership of which he owns the partnership interest. The business venue of COMPANY and BUSINESS will be to provide a way for GROUP working in the United States to send money home to relatives to purchase basic grocery supplies in COUNTRY. The GROUP worker will pay money to the business venture in the U.S. which will then be sent to COUNTRY to purchase groceries for family members through a distribution chain of large and well known grocery stores. A small administrative charge will be taken out of the money that the GROUP worker sends home, and because of the economies of scale from the distribution point in COUNTRY, a discount favorable to the GROUP worker will be achieved on the purchase and delivery of groceries in COUNTRY.

The manner in which the money will flow from the GROUP worker in Illinois to his family in COUNTRY is as follows:

A. The GROUP worker in Illinois will go to a processing center in Illinois run by a third party and pay \$100 to obtain an account equal to the \$100 (or a slightly discounted amount). The worker will get some type of receipt for his deposit so that it can be traced. The receipt may be in the form of a card from the processing center showing how much has been used at any point in time. Based on some introductory application information as to where the groceries are to be sent in COUNTRY, once the money is deposited, the groceries will be sent immediately to his family.

B. The processing center in Illinois will transfer the funds collected for the day (or week) to BUSINESS's U.S. bank account. BUSINESS will then transfer the money to COMPANY through either a wire or a transfer between branches of the bank. COMPANY will then use those funds to pay the grocery store chain in COUNTRY on a bulk basis as groceries are purchased and delivered in COUNTRY.

C. COMPANY will contact the grocery store and the groceries (as pre-ordered on the initial application) will be delivered to the family in COUNTRY.

### ISSUES

1. Is the deposit of money by the GROUP worker at the Illinois processing center considered a taxable sale subject to sales tax or any other transaction tax in Illinois?

2. Are any of the transactions described in the FACTS subject to sales tax or any other transaction tax in Illinois?

Thank you for your attention to this matter. If you have any questions, please call me at your convenience. I look forward to your written response.

### **DEPARTMENT'S RESPONSE**

The Retailers' Occupation Tax Act, 35 ILCS 120/1 et seq., imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. The tax is measured by the seller's gross receipts from such sales made in the course of such business. "Gross receipts" means the total selling price or the amount of such sales. When Illinois retailers sell tangible personal property to customers for a particular dollar amount, they have made sales subject to the Retailers' Occupation Tax. The retailers must pay Retailers' Occupation Tax to the Department based upon their gross receipts, or actual amount received, from the sales of the tangible personal property.

Section 3 of the Illinois Use Tax Act, 35 ILCS 105/3, imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. As stated above, Retailers' Occupation Tax is imposed upon gross receipts of sellers and the tax acts contain provisions that require the retailer to collect the complementary Use Tax from the customer. This in effect reimburses the retailer for his Retailers' Occupation Tax liability. When a retailer purchases consumable supply items from vendors who do not collect Illinois tax, the purchaser should self-assess the Use Tax and remit it directly to the Illinois Department of Revenue.

When a purchase order for tangible personal property is accepted in Illinois by an Illinois retailer, and the tangible personal property is either delivered from a sales inventory in Illinois, or is shipped in from a sales inventory outside the State, a taxable sale has been made. The retailer will owe Retailer's Occupation Tax, and the purchaser will owe Use Tax. However, for a transaction where the purchase order is accepted in Illinois, but the order is neither delivered from an inventory in Illinois, nor shipped into Illinois from out-of-State, that transaction is not subject to the Retailers' Occupation Tax or Use Tax.

If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote  
Associate Counsel

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